

REMARKS

The following remarks are fully and completely responsive to the Office Action dated January 25, 2005. By this Amendment, claims 6 and 12 have been canceled and claims 1, 5, 7-9 and 11 have been amended. Accordingly, claims 1, 3, 5, 7-9, 11 and 13 are pending in this application. In the outstanding Office Action, claims 1, 5-6, 8-9 and 11-12 were rejected under 35 U.S.C. § 102(e). Claim 7 was indicated as containing allowable subject matter, but was objected to as being dependent upon a rejected base claim. No new matter has been added. Claims 3 and 13 have been allowed. Claims 1, 5, 7-9 and 11 are presented for reconsideration.

Finality of Office Action

The Office Action dated January 25, 2005 was responsive to a Request for Continued Examination under 37 C.F.R. § 1.114 which was filed on November 10, 2004. The outstanding Office Action was marked as Final. However, in a telephone conference with the Examiner, the Examiner indicated that this Office Action was improperly marked Final and should be considered as a non-final Office Action. Under M.P.E.P. § 706.07(b), the finality of the outstanding Office Action is improper since the Advisory Action in response to the previous Final Office Action indicated that the claim amendments would require further consideration and/or search. Therefore, Applicants respectfully request withdrawal of the finality of the Office Action dated January 25, 2005.

35 U.S.C. § 102(e) and § 103(a)

Claims 1, 5-6, 7-9 and 11-12 were rejected under 35 U.S.C. § 102(e) as anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Knowles et al. (U.S. Patent Publication No. 2003/0079227 "Knowles"). Claims 6 and 12 have been canceled, rendering the rejection of these claims moot. In making this rejection, the Office Action asserts that this reference teaches and/or suggests each and every element of the claimed invention. Applicants respectfully disagree and request reconsideration of this rejection.

Independent claims 1, 5 and 11, as amended, recite in part:

...means for determining whether any of a plurality of time periods includes a purchased one of a plurality of purchasable programs, wherein a first of the plurality of time periods begins immediately after a second of the plurality of time periods ends;

As a result of the above claim element, there is no time gap between the first time period and the second time period.

The Office Action points to Figures 1c and 31 and paragraphs [0070], [0083], [0088] and [0089] of Knowles as providing the necessary support for the anticipation and/or obviousness rejection of independent claims 1, 5 and 11. This reference describes a "scheduled events list" which may depict (1) information associated with user purchase pay-per-view programs and/or pay-per-view scheduled times, and (2) the time period during which these programs would be shown. See Knowles, paragraph [0070] and Figure 31.

Independent claims 1, 5 and 11 require that the first time period begin immediately after the second time period ends. However, the scheduled events list

depicted in Knowles is designed to display the actual program information associated with the **Purchase Program** and, as such, the time periods which are depicted in the scheduled events list correspond to the time periods during which the purchase pay-per-view program will be shown. Consequently, a first depicted time period does not begin immediately after a second depicted time period ends. For example, as shown in Figure 31, a time period corresponding to a first purchase program is 10:00 p.m. to 12:30 a.m. on Wednesday and the time period corresponding to the second purchase program is 12:00 p.m. to 2:00 p.m. on Thursday.

Moreover, one of ordinary skill in the art would not be motivated to modify the scheduled events list to depict time periods in which there is no time gap between the depicted time periods because a user may purchase programs that are hours (e.g., five hours) or days (e.g., five days) apart. In order to display the information associated with both purchase programs and to depict the time periods in which there is no time gap between the time periods, Knowles would have to be modified to display all of the time periods that occur between the two purchase programs, i.e., Knowles would have to simultaneously display five days worth of time periods, which is not desirable.

In contrast, in independent claims 1, 5 and 11, the program information that is displayed is associated with programs that currently are on and/or will be on in the near future, e.g., will be on within the next few hours, and such program information is not altered when the user purchases a purchasable program. As such, the displayed program information is not associated with the purchase program, and instead, the display merely is designed to distinguish the time periods associated with the purchase program from the other displayed time periods, e.g., via coloring or highlighting.

Accordingly, Knowles fails to teach and/or suggest the claimed invention. Specifically, Knowles fails to teach and/or suggest at least "means for determining whether any of a plurality of time periods includes a purchased one of a plurality of purchasable programs, wherein a first of the plurality of time periods begins immediately after a second of the plurality of time periods ends". Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 5 and 11 and the claims dependent thereon under 35 U.S.C. § 102(e), or, in the alternative, under 35 U.S.C. § 103(a).

Allowable Subject Matter

Claim 7 was indicated as containing allowable subject matter, but was objected to as being dependent upon a rejected base claim. Claim 7 has been amended to place this claim in independent form. Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to claim 7.

Conclusion

Applicants' amendments and remarks have overcome the objection and rejection set forth in the Office Action dated January 25, 2005. Specifically, Applicants' remarks have distinguished claims 1, 5 and 11 from Knowles and thus overcome the rejection of these claims under 35 U.S.C. § 102(e) or § 103(a). The cancellation of claims 6 and 12 renders the rejection of these claims moot. The amendment of claims 8 and 9 to depend from claim 7 overcomes the rejection of these claims under 35 U.S.C. § 102(e) or § 103(a). Applicants' amendment of claim 7, to place this claim in independent form,

overcomes the objection to this claim. Accordingly, claims 1, 5, 7-9 and 11 are in condition for allowance. Therefore, Applicants respectfully request consideration and allowance of claims 1, 5, 7-9 and 11. Claims 3 and 13 were allowed.

Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney by telephone if it is believed that such contact will expedite the prosecution of the application.

In the event that this paper is not considered to be timely filed, Applicants respectfully petition for an appropriate extension of time.

The Commissioner is authorized to charge payment for any additional fees which may be required with respect to this paper to our Deposit Account No. 01-2300, making reference to attorney docket number 107355-08002.

Respectfully submitted,
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